

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
APRIL 21, 1998**

The one thousand seven hundred and eighty-ninth meeting of the Milwaukie City Council was called to order by Mayor Tomei at 7:00 p.m. in the Milwaukie City Hall Council Chambers. The following Councilors were present:

Larry Lancaster  
Mary King

Rob Kappa  
Jeff Marshall

Also present:

Dan Bartlett,  
City Manager  
Charlene Richards,  
Assistant City Manager  
Tim Ramis,  
City Attorney

Jim Brink,  
Public Works Director  
Michelle Gregory,  
Neighborhood Services Coordinator  
Rob Shelton,  
Associate Engineer

**CONSENT AGENDA**

**Mayor Tomei** wanted to discuss the April 7, 1998, City Council minutes in "Other Business."

**AUDIENCE PARTICIPATION**

**Jr. High School Pool Funding**

**Sally Collins**, 11367 SE 35th, Milwaukie. She read her statement into the record: She was there on two related items. The first item was the Milwaukie Pool Program and the second was the Neighborhood Grant Program.

She was appalled that the City Council dropped a \$2,000 budget request and failed in offering the City's official stamp of approval for the children's water and safety recreational program that has been part of the community for over sixty years. She did not ask for full funding of the program nor did her group intend to in the future. She asked for a very small amount of money, of which almost half is paid back to the City in the form of a water bill for the pool.

She was angry about a Budget Committee meeting comment that, if the City Council approved the \$2,000 request, every children's program would be at the City's door step wanting money. The City of Milwaukie has a multi-million dollar budget, and maybe the Council should consider some of those dollars for children's programs. The City is in the process of spending about \$125,000 of federal money to find out why kids are hanging out in downtown Milwaukie and

sometimes causing problems. Her answer was “not enough people care about these particular kids.” She asked the City to do its part and reinstate the \$2,000 pool budget request in an approved budget or at least make arrangements to pick up the cost of the water.

**Collins** continued with the second issue. Some Councilmembers felt the Neighborhood District Associations (NDA) should fund the pool instead of the City. The City has some obligations and so do the citizens. She also believed there was a serious flaw in the Grant Program criteria. She read from the grant document which identified criteria, partnerships, and funding eligibility. There was one line that she believed as the problem: “funds must be used for a project that provides direct public benefit within the Neighborhood District Association boundaries.” The pool is located in the Historic Milwaukie NDA in addition to the proposed skate park and the Library. That one line states clearly that no matching funds will be awarded if the project is not located within the boundaries of the NDA. According to the criteria, another NDA would not be eligible to obtain funding. She felt that language should be changed to say the project must be within the City of Milwaukie boundaries.

**Mayor Tomei** said that was certainly not the City Council’s intent when it adopted the criteria.

**Bartlett** said the intent could be clarified. The intent was that any neighborhood could seek a grant for a project of general benefit to the community.

**Collins** said the criteria are very confusing to the NDAs. She felt the Grant Committee might also be confused by the language.

**Councilor Kappa** wished Collins had brought her concerns to the Council earlier. It was not the intent of the grant process for the criteria to be interpreted in this manner.

**Bartlett** said the final decision is up to the recommending Committee based on the process adopted by Council. He did not believe any technical corrections were needed before applications were submitted. In the staff’s interpretation, that was not the City’s intent. NDA chairs have been advised the intent was to consider applications that were generally beneficial to the community as a whole. He had informed members of the Lake Road NDA that the pool program would be a good matching use project.

**Collins** felt the people making the decisions would be confused.

**Mayor Tomei** assured Collins the criteria would be clarified.

**Councilor King** asked Collins when the money was needed. **Collins** said she originally made her request in January for funds to operate the pool this summer.

The program will open this year one way or another. Discussions are taking place on the future of the Jr. High site, since the School District's bond measure did not pass. The program has been active for sixty years, and she did not want to give it up until the pool was replaced or thoroughly discussed in the community. She said she needed the money by June 30.

### **Safeway Facility Usage – Teen Center/Skate Park**

**Jessica Knight**, 4685 SE Brookside Drive, Milwaukie. She toured the Safeway facility with Gregory earlier that day and was impressed with the space. She supported its being used as a youth center for the summer, and, if things went well, it could continue. Teens need a place to go without bothering store owners and people on downtown streets. If there were a skate park in the Safeway Building, teens would be inside the facility resulting in less damage to public areas. Milwaukie would look a lot nicer.

**Jacob Stoelzman**, 11321 SE 33<sup>rd</sup>, Milwaukie. He supported the use of the Safeway Building as a teen and skate center. Skaters and other teens need a place to go. He worked on trying to get a skate park before and helped out with the Festival Daze Skate Park last summer. He knew a lot of people who would be willing to help.

**Councilor Marshall** asked if teens would use the facility if it was converted to a skate park. **Stoelzman** felt a majority of people would skate there.

**Councilor Kappa** thanked Stoelzman for his help during Milwaukie Festival Daze. He asked if that activity was a success. **Stoelzman** thought the skate park was a great success. People skated all day, had a lot of fun, and made new friends.

**Chris Prouty**, 3956 SE Lake Road, Milwaukie. The park is needed because a lot of kids are out in public and getting in trouble for skating. All they really want to do is have a place to skate, and he pointed out there were facilities for other activities such as tennis and basketball.

**Councilor Lancaster** asked how self-policing would be handled. **Ian Graham**, 10400 SE Cook Court, thought people would police themselves and pick up or recycle their own bottles and cans. He suggested a graffiti wall and trash and recycling receptacles.

**Shan Knight**, 4685 SE Brookside Drive. She was very interested in the project because there are a lot of latchkey kids with parents working one or two jobs. They have no where to go after school. The pool, teen center, and Library would be a great community asset because they are so close together. She felt it would be a mistake to charge because some latchkey kids do not have the money. She suggested hiring part-time people who would work on a stipend and

volunteer the rest of their time. There are people who care and want to volunteer, and they will make a sacrifice for a stipend in order to pay the rent. It is important to remember kids need a place to practice their music. She urged supporting the kids by making the Safeway Building a teen center and skate park.

### **Urban Forestry Program/Tree Ordinance**

**Gary Michael**, 11907 SE 19<sup>th</sup>, Milwaukie. He addressed the City Council on the continuing loss of publicly-owned trees. Almost 3-1/2 years ago, there was a Planning Commission subcommittee formed to draft an Urban Forestry Ordinance. Milwaukie is one of the few cities in the region that does not have a tree ordinance. The goal of this endeavor was to protect the existing trees and encourage planting and care of new trees through education, regulation, and using the expertise of those who know about urban trees.

In 1996, the Planning Commission reviewed and approved the draft ordinance. The Council deliberated the proposal, but the ordinance was shelved. Trees continue to fall; for example, three nice trees on the south side of City Hall were cut down because of sidewalk damage. Four or five trees in the public right-of-way on Oak Street were cut down because the adjacent property did not trim them as the City requested. In both situations, the trees were in the right-of-way, and there were alternatives to cutting them.

**Michael** said many residents believe trees are one of the main elements that make Milwaukie a good place to live. One of the best ways to improve the downtown is to plant more street trees and save the good ones that are already there. He asked the City Council to do four things: (1) take the Urban Forestry Ordinance off the shelf, refine if necessary, and adopt it; (2) make it clear to staff that the appropriate Neighborhood District Association (NDA) is notified well in advance if there is a permit issued to cut trees on public property; (3) establish a policy that there will be no permits issued, unless a threat to life and property exists, until the Urban Forestry Ordinance is adopted; and (4) authorize the City to work with the Milwaukie Downtown Development Association (MDDA) and the Historic Milwaukie NDA to implement a tree planting program in the downtown area. He urged adoption of the Tree Ordinance as soon as possible.

**Councilor Kappa** said the Tree Ordinance and Urban Forestry Program are two separate issues. The project was never shelved, but it was put off because of other events taking place. He wanted to preserve trees, but the concern of inflicting penalties on private property owners needed to be resolved.

**Michael** understood there were some concerns with the details, and he asked the current Council to review and refine the ordinance. Trees and sidewalks are amenities that add value to the adjacent properties. Just as it is the responsibility of adjacent property owners to take care of the sidewalks, it is

logical that they also take care of the trees. In most cities, if the property owner is unwilling or unable to take care of the sidewalk, the city provides the service and bills the property owner. He suggested a similar approach.

**Mayor Tomei** said there were several members on City Council who were very concerned about the issue and would like to review the ordinance and the Program as soon as possible.

**Councilor Marshall** wanted to see the ordinance in the next packet.

**Councilor Kappa** was very much in favor of the Urban Forestry Program and Tree Ordinance, but he was concerned about the financial aspect.

### **Code Enforcement**

**Cindy O'Reilly**, 5621 SE Logus. She spoke as a citizen and active member of the Lewelling NDA. She asked the City Council, in its budget planning process, to consider putting more emphasis on the aesthetic appeal of the community. Aesthetic appeal is a top priority to many residents and helps people feel good about and proud of the place they live. Code enforcement is on reactive basis and requires neighbors to call in complaints against neighbors. She did not feel this built strong neighborhood relationships. When she asked about a more proactive position by the City, she was told there was only one person, and code enforcement was not her full-time duty. She wanted to see a better working relationship between the City and the County regarding code enforcement. Putting more time and money into a proactive plan regarding code enforcement and beautification should be seriously considered to raise the City's standards to a higher level. This is an important issue that deserves more attention.

**Councilor King** agreed that was an excellent point.

**Mayor Tomei** understood the Code Enforcement person was half-time.

**Bartlett** said that was correct. There is also a Neighborhood Services Team made up of all City employees who can make a report just as a neighbor would. That is done frequently.

**O'Reilly** responded that was not adequate. She did not feel it was appropriate that she should have to talk to her neighbor about a junk car or a boat in the yard. Although she understood that neighbors should work together, these are touchy situations. She felt the City and the neighbors needed to work together to raise Milwaukie's standards.

**Councilor Kappa** suggested O'Reilly bring this concern to the Budget Committee meeting on May 4 and make her presentation.

### **Metro Candidate**

**Liz Callison**, 6039 SE Knightsbridge Drive. She introduced herself as a Metro District 7 candidate. She discussed the Tree Preservation Ordinances adopted by the Cities of Portland and Lake Oswego.

### **PUBLIC HEARING**

#### **Regional Center Master Plan – File Nos. CPA-97-03; ZA-97-03; and ZC-97-03**

**Mayor Tomei** called the public hearing on the proposed Regional Center Master Plan Implementation to order at 7:35 p.m.

**Ramis** reviewed the procedure. Normally, the broad legislative decision and the specific decisions about individual properties would be conducted in separate hearings. To do that in a proposal like this, there would have to be one hearing on the legislative aspects with a second hearing on whether to apply those policies to individual properties. To make the process less complex and lengthy, the City Attorney suggested combining the hearings.

For purposes of testimony, people should speak on both the broad topics and make comments on individual, particular pieces of property. To the extent there are comments on individual properties, those testifying need to raise all their issues. Otherwise, if one wished to appeal the decisions to the Land Use Board of Appeals (LUBA), he or she would be precluded from raising issues that were not brought forward at this hearing. People must be sure to raise all issues in order to raise them later.

**Ramis** reviewed the format: (1) Council declares any ex parte contacts; (2) staff report; (3) correspondence; (4) testimony in favor; (5) testimony in opposition; (6) neutral testimony; (7) rebuttal; (8) staff comments; (9) questions and direction from Council; and (10) close hearing and deliberate, if Council chooses. The City Council may also decide to continue the decision to a later time.

**Mayor Tomei** noted many people had mixed feelings about whether Milwaukie should be a Regional or a Town Center. At this point, Milwaukie is designated a Regional Center, but that could be changed easily. This decision has nothing to do with the designation. Those objecting to the Regional Center designation do not have to address that issue at this hearing.

Ex Parte Communications: There were no ex parte contacts declared.

Staff Report: **Heiser** presented the staff report on CPA-97-03; ZA-97-03; and ZC-97-03. These revisions are proposed to implement portions of the Regional Center Master Plan (RCMP) which was adopted by the City Council on December 2, 1997. These amendments were reviewed and discussed by the Planning Commission at public hearings on October 28 and November 25, 1997, and adopted on January 27, 1998.

Many Milwaukie residents and property owners provided testimony at these hearings. The majority of the comments by the Commission were addressed in the amendments before the City Council at this meeting. Notice of the revisions were sent to the Department of Land Conservation and Development (DLCD), Metro, Oregon Department of Transportation (ODOT), and property owners within 400 feet of the individual properties proposed to be rezoned.

Two actions would be necessary to approve the amendment package. The first action would be legislative to consider the Comprehensive Plan text amendments and the zoning ordinance text amendments. The second action would be a major quasi-judicial land use action to consider the Comprehensive Plan map and zoning map changes.

The requested Comprehensive Plan text amendments, CPA-97-03, are contained in Chapter 4 – *Land Use*. The majority of the amendments are necessary to add reference to the RCMP, the Riverfront Plan, the existing Residential-Office-Commercial (R-O-C) zoning district, and the proposed mixed use overlay zone as well as to delete references to the downtown office center designation and to clarify the RCMP designation.

Two important changes are noted on pages RS-6 and -10. These include the addition of the Regional Center as a Comprehensive Plan map designation with a dwelling unit density of 25 - 50 units per acre and the addition of specific Regional Center policies. The policies refer to the six subareas identified in the RCMP and calls for a mixed use zone combining high density residential with retail and service commercial or office uses.

The Zoning Ordinance text amendments proposed as ZA-97-03 would add a definition for town homes to Section 100 and a mixed use overlay district. The mixed use overlay district is intended to be an interim overlay for sites that have been determined critical to redevelopment efforts. It is intended to be updated

as part of the City's Functional Plan compliance process. At this time, it would only apply to the downtown area including the Jr. High School and Safeway sites as well as other areas identified as Subarea 1 of the RCMP.

**Mayor Tomei** asked for a brief discussion of the Functional Plan. **Heiser** said it is a State and Metro Plan with which cities must comply in order to spread density throughout the region. Chris Eaton, W&H Pacific, would provide more information later in the staff report.

**Heiser** indicated the areas on a map that was included as Exhibit 1 in the Council packet. The mixed use overlay zone would also apply to the Pendleton, Murphy, Stanley Tool, and McFarland sites. The mixed use overlay zone would permit 21 uses including residential, retail, offices, restaurants, banks, hotels, farmers' market, day care, and other commercial and public uses. It requires a development review process and public hearing before the Planning Commission for new development and major renovations.

Section 318.8 contains general standards for all sites which include the mix of commercial to residential uses, development and location for parking and parking structures, requirements for large window fronts on first floor retail buildings, allowances for outdoor display and café areas, and residential densities between 25 - 50 units per acre. It specifies a selection of thirteen design components, six of which must be included in a project. It allows for density transfers to retain historic structures or existing single family homes.

Section 318.9 contains additional development standards for each of the specific sites proposed to be rezoned. The mixed use overlay zone requires consistency with the underlying zoning district, except as specified.

**Heiser** reviewed the map amendments. The Comprehensive Plan map changes include changing the existing map designations for Subarea 1 and the Pendleton, Murphy, Stanley Tool, and McFarland sites. There were several City-owned properties being requested to be designated publicly-owned lands.

**Mayor Tomei** asked Heiser to be more specific about those lands. **Bartlett** said these properties were Kronberg, one parcel on the other side of the trestle, Eastman, and the former trolley right-of-way.

**Councilor Marshall** said, in order to consider CPA -97-03 in its entirety, the City Council would be considering properties 1, 3, 4, and 6. **Heiser** said the City Council would consider all of Subarea 1 and certain properties from 2,4, and 6. **Councilor Marshall** said City Council would be considering site specific properties.

**Heiser** continued. The Zoning Map changes within the RCMP area establishes a mixed use overlay zone district and R-O-C district that includes the Pendleton,



Murphy, Stanley Tool, and McFarland sites. It is not currently applied to any site in the City. R-O-C is a true mixed use zone and differs from the mixed use zone by allowing uses outright. It does not specify densities or design improvements. The overlay zone would require a public hearing, while the R-O-C district does not. The R-O-C is strictly a building permit issue.

**Councilor King** said if these are zoned R-O-C, public hearings are not held. **Heiser** responded the standards are more specific in the mixed use overlay and relate to individual sites.

**Councilor Kappa** suggested working with sites 1 and 6, the Murphy and McFarland sites.

**Ramis** said, for the purpose of the hearing, people can speak to any of the issues. Once the hearing is closed and Council deliberates, it can address the sites separately. During this process, everyone must be allowed to address any concerns on the entire issue.

**Heiser** said the next issue would be to add the mixed use overlay district to all of those sites as well as Subarea 1 – Downtown. The mixed use overlay would be added to it the subarea's current base zoning.

The Planning Commission recommended approval. The City Council has the option of adopting the proposals as recommended, adopting revised proposals, setting the proposals aside, or remanding all or portions of the proposals back to the Planning Commission for further consideration. If the City Council decides to approve these proposals, staff prepared draft ordinances for its consideration.

Michael Smith, Planning Commission Chair; Chris Eaton W&H Pacific; and Mary Webber and Brenda Bernards, Metro, were present to answer questions.

**Chris Eaton**, W&H Pacific, 8405 SW Nimbus Ave., Beaverton. She has acted as a consultant on the RCMP and other activities for the City over the past two years. She discussed the Functional Plan process. All cities in the Portland regional area are governed by Metro's Functional Plan which was acknowledged by the State and became effective February 1997.

The Plan sets regional requirements for local governments, one of which is a compliance report due August 1998. That compliance report, which is essentially a status report, requires the City to tell Metro how it intends to meet the Plan's requirements. The compliance report is not an amendment package. The Functional Plan does require entities to adopt their amendments by February 19, 1999.

The 97-03 package before the City Council addresses many of the Functional Plan issues. **Eaton** discussed the key issue to be addressed and the tasks the

City must undertake. Key Plan issues were population and employment allocations; the zoned density or path development between 1990 and 1995 in the City of Milwaukie; design types in the concept map and adequacy in addressing the targets; adequacy of public facilities plans; restrictions on retail in employment areas; and changes in parking standards.

**Eaton** discussed the process and tasks. These included reviewing plans and policies such as the RCMP, Transportation System Plan (TSP), and other similar existing documents. Her firm will review these plans for adequacy, check capacity calculations, provide compliance reports to the City Council, and develop a range of policy suggestions.

**Eaton** summarized. The project will come through the Planning Commission to the City Council in work sessions as well as hearings for final actions. The compliance report will eventually go to Metro by mid-August. There will be an opportunity for public comment and testimony.

**Councilor Kappa** asked if the report was done as a whole or in segments.

**Eaton** said it will probably be one report, but there will probably be some flexibility.

Correspondence: Mark Whitlow, Bogle and Gates, 200 Market #600, Portland, 97201, Attorney for the Murphy Company, requested his written statement be included in the record. "Please make this written statement part of the records as an appearance by the Murphy Company. Support staff recommendation for Subarea 2, Site 2-1 (Murphy Plywood) re Business Industrial (BI) Designation – otherwise please exclude the Murphy Plywood site from the Regional Center's boundaries. Please hold the record open for seven (7) days."

**Ramis** noted, for the record, that one of the properties was owned by a company called Murphy. Several years ago, his firm represented a company with a similar name on a land use matter in a rural area. He did not know if it was the same company. If it was, his firm had no open file, and the company has not discussed this matter with him. There would be no impact on his representation of the City.

Testimony in Favor: **Donald Stark**, 1515 SW Fifth, Portland, Attorney for Pendleton. He testified at the Planning Commission hearing regarding the Pendleton parcel in favor of the RCMP. His client understood as a result of that modification, Pendleton would have to consider zone changes. The company is now closed, and the plant no longer manufactures. There are parties interested in manufacturing on the site which would be allowed under existing zoning. Pendleton, however, has opted to keep the property off the market until the City of Milwaukie completes a zoning plan that covers that property, and it will comply with that plan. Pendleton has worked with City staff and approves all the language in the draft ordinances. Pendleton would testify in favor of the

ordinance, and if the ordinance is changed, it would wish to be heard on those changes.

**Chris Bernhardt**, WRG Design, 10450 SW Nimbus Ave., Portland 97223, engineering consultant for L.D. McFarland Co. The triangular site is located between SE Monroe, 37<sup>th</sup> Avenue, the Milwaukie MarketPlace, and Oak Street. McFarland is in favor of the proposed changes and has worked closely with staff. The designations for the site are appropriate for the types of uses that will be allowed in the R-O-C with a mixed use overlay. The company also believes the specific site issues adequately address the contamination on the southeast corner. He was there to offer information on the site. He noted, McFarland has begun to consider land use actions for some development at that site under the present R-O-C zoning.

**Councilor Marshall** asked Bernhardt what McFarland would do differently under the current zoning compared to the proposed zoning.

**Bernhardt** responded the density is much lower under the R-O-C than under the overlay. He believed the market better supports the existing R-O-C in terms of lower density on the site. With a mixed use overlay, the minimum number of residential units for residential would be 121. That would be the main change. McFarland would still propose a mixed use commercial in the southeast corner of the site with the rest primarily residential. This is purely schematic at this point, and no definite conclusions have been reached.

**Councilor King** asked if the concept was included in the packet. **Bernhardt** said the concept has changed to some degree. Parcel two will still have commercial uses, and the remainder will potentially be attached town homes with condos and apartment on the west side. A more recent site plan would be available from the Community Development Department.

**Councilor Kappa** asked what kind of commercial development was envisioned under the current zoning. **Bernhardt** said the current zoning is R-2, and no commercial uses are allowed outright. The proposed rezone to the R-O-C would allow retail, commercial on the first floor with commercial on the second floor. McFarland would apply for a zone change under the current R-O-C.

**Ramis** understood Bernhardt to say McFarland would apply for a zone change.

**Bernhardt** said that was the land use action currently being considered.

**Dodie Linder**, 10952 SE 21<sup>st</sup> #5, Milwaukie Downtown Development Association (MDDA) Director. The MDDA supports the Regional Center and mixed use zoning in the downtown area. She noted an October 1997 letter to the Planning Commission from the MDDA regarding some changes in wording which she understood were taken into consideration. The MDDA is still in favor of the

proposal as designated. She provided a copy of the Oregon Downtown Development Association (ODDA) publication "*Living on Main Street*" that provided case studies of residential zoning changes that allowed retail on the ground floor with residential and offices on the upper floors. There have been some real success stories.

**Jim Bernard**, 7615 SE 20<sup>th</sup>, Portland, Milwaukie business owner, and MDDA member. He testified in support of the Plan. Milwaukie is dying, and something needs to be done now. In the past few days, Dairy Queen was sold, U.S. Bank moved, and Perry's Pharmacy is leaving town. There are a lot of empty buildings. Something needs to be done before window shades go up, and they become doctors' offices. There will be no reason for anyone to come to town except for surgery or to visit a lawyer. It is important to allow light rail. The MDDA is currently looking at the Plan and drawing up its recommendations. He loved the City, but it is dying fast. Something needs to be done now, or it will be too late. Today's economy is very good, but Milwaukie's buildings are deteriorating.

**Karen O'Dowd**, 2508 SE Vineyard Way, Milwaukie, past MDDA Manager. She understood there were many questions about other areas of the RCMP. The downtown area has a lot of problems. There are 183 businesses in the Economic Improvement District (EID), and there will be only twelve retail businesses by mid-May. Changing the zoning will not drive the market, but it will prevent Main Street from going farther out of balance. She agreed with Linder's comments on the success of renovating upper floors for residential uses. This brings more shoppers and eyes to watch for vandalism. This proposal is very important for the downtown area, and she urged the Council to act swiftly. The spaces that are available now could be leased to a kind of business that would not bring anyone else downtown.

Testimony in Opposition:

**Chris Ortolano**, 10188 SE 48<sup>th</sup>, Milwaukie, Hector Campbell NDA resident. He acknowledged the work of the Land Use Committee and Metro in their presentations. He lived outside the 400 foot notification area. He spoke in opposition to the proposed change to the McFarland site from its current zoning to the revised zoning that would provide a mixed use and commercial zoning without any public hearing. He wanted the ability to appeal decisions to the Land

Use Board of Appeals (LUBA). He understood downtown revitalization was essential, and the McFarland site could play a vital role as a Saturday Market or park. The Hector Campbell Neighborhood does not have a park, and he recommended all or part of the site be used as a park.

**Councilor Kappa** asked Ortolano to expand on his position. **Ortolano** was opposed to one aspect. He was concerned a change in the zoning ordinance would not require a public hearing before a decision was made on the site. That would not be appropriate.

**Councilor Kappa** said this is the public hearing process for that particular site. **Ramis** added it is an aspect of the public hearing. He understood the witness to say he opposed a zone that would allow certain uses outright without further hearing.

**Councilor Kappa** asked if his major concern was the high density of that particular piece of property. **Ortolano** responded at this point he was not sure high density was the best use for that parcel. He was sure, however, that the Hector Campbell Neighborhood had no parks. He knew there was a lot of sentiment in the neighborhood that a park in that part of town was a priority. All or part of the site should be considered for a neighborhood park.

**Brent Carter**, 3641 SE Monroe #17, Milwaukie, Hector Campbell NDA. He spoke in partial opposition to the proposal. He was specifically opposed to the R-O-C zone on the McFarland site. The whole area was formerly a major wetlands and migration spot. He recommended at least part of the site be developed into a park to support the environmental value of the area. Rezoning the site to R-O-C would be a detriment to traffic on Monroe and 37<sup>th</sup> especially with the railroad crossing. The area is already congested. He thanked the City Council for clearing the high water hazard at the Monroe/Oak intersection. He noted he lived outside the 400 foot notification zone and did not receive information on the new type of zoning being proposed.

**Bernice Vickerman**, 3930 SE Washington, Milwaukie. She spoke in opposition to the proposal as it related to the McFarland triangle. She was beyond the 400 foot notification area. She was concerned with what fifty units per acre would look like if the site were zoned for mixed use. She understood the residential area would also be rezoned mixed use, and she was very concerned about what would be living next to her. She was concerned there would not be sufficient open space for children to play. Children would be mixed with commercial and strangers. She was in favor of a park that would give children some open space and a place to stay out of trouble. Traffic does not flow through that area well now. She asked for more information on what was proposed for the property and if there were plans relating to light rail.

**Councilor Marshall** asked Vickerman how long she lived in the neighborhood. **Vickerman** responded she lived there for about ten years.

**Councilor Marshall** asked her why she moved there. **Vickerman** said the house was affordable. It was the worst house on the street, and she made it look more presentable.

**Councilor Marshall** asked her to briefly describe the neighborhood character. **Vickerman** replied it was an older neighborhood with some nice homes and some that were run down.

**Mayor Tomei** did not know of any plans to build apartment houses in her neighborhood. **Vickerman** understood there would be mixed use in the area up to 42<sup>nd</sup> Avenue.

**Annaliese Hummel**, 2802 SE Monroe. The Council is new. She read last week that the former mayor had asked that Milwaukie be designated a Regional Center. There are people here who still think their testimony might make a difference. It will not make any difference in the decision. The area is wetlands, and she has testified she would like those restored. She discussed what would take place in the neighborhoods with light rail, high density, and additional neighborhood traffic. She is a ten-year Milwaukie resident, and it was livability, quiet, and open space that brought her to the City. She will have to move. The new Council should really make decisions other than those that have already been made. That is why the new Council was elected, so the City will have a different vision. She did agree that downtown Milwaukie needed help. The power of money should not be the issue. It should be the power of the people. People need to stand up and fight and save the City. Downtown is not the issue. High rises and strip malls are ludicrous.

Questions:

**David Murrar**y, 4055 SE Washington, Hector Campbell NDA Land Use Chair and Milwaukie Park and Recreation Board member. He had a letter from the NDA concerning the McFarland site. He has lived in his current home for fourteen years and learned to swim at the Milwaukie Jr. High School pool. The letter read: "On 4/13/97, by a unanimous vote of the Hector Campbell Neighborhood District Association: in consideration that no parks exist in the Hector Campbell Neighborhood District Association (HCNDA), we the members of the HCNDA request and petition the City of Milwaukie and North Clackamas Park District to purchase the vacant property located at the SW corner of 37<sup>th</sup> and Monroe for a city, regional, and neighborhood park." It is the only available space of any size in the neighborhood. It is in a good location for a park. People use the site just as it is."

**Mart Hughes**, 3006 SE Washington, Milwaukie. He spoke for the directors of the Milwaukie Democracy Project who have concerns about the current plan and recommend the City Council remand it back to the Planning Commission to be re-worked with the consent of the neighborhoods involved. As a City resident and environmental activist, he encouraged the City Council to remove the R-O-C zones from the Plan since they were not contiguous to the downtown area. The back room approach to development is only going to allow degradation of the residential community. He was particularly concerned about the Pendleton site and its location in the Willamette Greenway and the Johnson Creek Corridor. It is an extremely valuable resource and must be preserved as open space. He asked the City Council to handle the Pendleton site with special care and remand it back to the Planning Commission. It is too valuable a site to be developed or planned for without looking closely at the environmental resources. The other two sites, McFarland and Stanley Tool, must be developed with the consensus of the Neighborhood District Associations. None of his remarks had to do with Subarea 1 – Downtown.

**Councilor Kappa** asked Hughes what he saw as possible solutions for the McFarland site. **Hughes** said his approach was not to project his opinion. The neighborhoods should lead the way. He heard some interesting comments at this meeting. As the steward of the wetlands conservancy site, he disagreed with the statements that there were no parks in the Hector Campbell NDA. He supported the idea of the McFarland site being a park, but he had no opinion as to the best use. The NDA should have a powerful voice at the Planning Commission. The City Council has the option to provide specific recommendations to the Planning Commission, and he thought it would be helpful to instruct the Planning Commission to go to the neighborhoods and develop an acceptable plan.

**Sharon Van Horn**, 3011 SE Balfour, Ardenwald NDA Chair, and Milwaukie Park and Recreation Board member. She had two issues with wording. She referred to the Comprehensive Plan Policies on staff report page VII.A.24 in which it was stated, "The city will encourage the development of infill housing." She wanted that removed and amended to read "Infill housing may be allowed and will be subject to approval of the established neighborhood and a design review to assure that infill development is suitable in a given location."

**Heiser** noted this was existing policy and was not part of the proposal before the City Council at this meeting. An amendment would have to be made through the Planning Commission and City Council hearing process.

**Van Horn** referred to staff report page VII.A.60 regarding the zoning of Site 1-4, the Milwaukie Jr. High. She recommended the language regarding high density with 25 - 30 units per acre be removed. It is important for that property to remain an open space until it has been purchased. It may have to be developed to give the City some tax base, but the decision can be made later.

**Mayor Tomei** understood that site was not being considered because it is public land. **Heiser** said it is mentioned on pages 10 and 11 of the mixed use zoning ordinance and VII.A.60, Subarea 1, Site 1-4.

**Van Horn** said the wording should not be included because there has been no decision on the site. It can be dealt with later by the City's working with the NDAs. She has been dealing with developers and infill, and they always cite existing Comprehensive Plan and zoning ordinance language. She was not opposed to development, but she did not feel it was the appropriate time to include the language.

**Councilor Kappa** understood Van Horn was asking that there be a master plan for the area if the property becomes available. **Van Horn** said it needs to be developed by the City with the NDAs. She was concerned about putting this language in a legal document and fighting with developers before the City is ready.

**Dave Stark**, 3920 SE Washington, Milwaukie. He has lived there for five years. He agreed the downtown area was important. When looking to apply R-O-C zoning to the Murphy, Pendleton, and McFarland sites, he recommended the City to be careful not to draw retail attention from the downtown area.

**Katherine Jones**, 10363 SE 24th Avenue, Milwaukie. She asked if the Functional Plan compliance report as based on density. **Eaton** said the report will address population and employment capacity. One way to meet the allocations is to increase density.

**Mayor Tomei** added the City is required by the Functional Plan to increase density and employment.

**Jones** asked about the general zoning for Subarea 1. She understood her house was in a multi-family zone. **Heiser** said there were several different zones in that area: G-C, general commercial; C-C, a lesser commercial; C-L which is more like a neighborhood commercial; R-5, single family residential; R-1B, multi-family with some residential and offices; WG, Willamette Greenway Overlay; and NR, Natural Resource Overlay. Jones' house is probably located in either the R-5 or R-1B zone.

**Jones** asked, if the R-O-C zone is adopted, the density would be less than if it has the overlay. **Heiser** said that was correct.



**Jones** asked, if there was less density, would the City be able to comply with the Functional Plan. **Eaton** said the compliance report is a status report and identifies how the City plans to meet its targets. The City may ask for exceptions, and there is a range of policy options.

**Jones** asked, if the City adopts the R-O-C zone instead of the overlay, would Metro expect as much of the City. **Eaton** said she would have to research the question.

**Jones** asked for a brief comparison between the Regional Center and the Town Center designations. **Brenda Bernards**, Senior Metro Planner, said the Metro 2040 Growth Concept lays out the hierarchy. There were several centers identified: the City Center, downtown Portland, that serves the entire region; the Regional Center, eight have been designated throughout the Metro area, that serve thousands of people and generally have a regional draw; and the Town Center that serves people living within a two to three mile radius. Examples of designated Town Centers are Forest Grove, Fairview, and Multnomah Kennel Club. Town Centers would have less intense development and serve a smaller area.

**Jones** asked if the City would still make a decision on the Regional Center vs. Town Center designation. **Mayor Tomei** said not at this meeting.

**Bernards** said the Metro Executive indicated this was Milwaukie's decision, and the issue can be brought forward in August.

**Michael Smith**, 1660 SE Waverly Drive, Planning Commission Chair. A number of people referred to wetlands, and he assumed they were referring to sites being looked at in this proposal. He asked if there were designated wetlands on any of the sites. **Heiser** said McFarland's is not designated a wetlands; it is adjacent to one. The Pendleton site is in the Willamette Greenway. **Smith** supported the proposal. The most significant difference between mixed use and R-O-C zoning was that mixed use gave the opportunity to look at the proposal and hold a public hearing.

**Ramis** asked if there was any other testimony.

**Bernhardt** offered several rebuttal comments. No wetlands have been identified on the McFarland site. He did not believe his client would be adverse to the land being used as a park; however, it is unlikely it would be donated. The density proposed under the R-O-C would be greater than the surrounding area and have commercial uses. It is a transition zone into the neighborhood with 100' x 200' commercial, professional-type uses. Any application would include a traffic impact and mitigation study. He discussed the hearing process with either the

R-O-C designation or the mixed use overlay. He said he would contact the Hector Campbell NDA later this month.

**Councilor King** asked if he thought the corporation would be interested in sharing the property. **Bernhardt** replied the client has identified some targets in order to recover contamination clean-up costs. There is a schematic design that shows part of the property as open space, and he felt the client would be open for discussing that option.

**Mayor Tomei** closed the public testimony portion of the hearing at 9:15 p.m.

Deliberation:

**Councilor Kappa** suggested concentrating first on Subarea 1 for which the RCMP was primarily designed. There have been some concerns expressed about the Jr. High site, and he felt there needed to be more planning for that. He agreed for the most part with the Planning Commission's recommendation for Subarea 1.

**Councilor King** asked, for clarification, if the Pendleton site was located in Subarea 1. **Eaton** said Pendleton is in Subarea 6.

**Mayor Tomei** suggested starting on the least controversial portion of the proposal in order to get a product from this hearing.

**Councilor Marshall** said the testimony was good and well-thought out on both sides. He had problems with many areas of the RCMP, but, after listening to comments, he was prepared to make a motion.

**It was moved by Councilor Marshall and seconded by Councilor Kappa that the City Council adopt Subarea 1 separate and exclusive of all other subareas under the three considered files. He wished to exclude the Jr. High Site (1-4), and the existing residential neighborhoods east of the railroad tracks. The remainder of the Regional Center Master Plan Files CPA-97-03, ZA-97-03, and ZC-97-03 should be remanded to Planning Commission with direction from the City Council to be determined at a future work session and/or Council meeting.**

**Councilor Marshall** felt there were many concerns and questions in the community about how the expanded Milwaukie Regional Center will impact the neighborhoods. He believed there was a concern in the whole City with the future of the downtown area. He personally felt changing the zoning alone would not help the downtown. The problems downtown are a culmination of many years of poor decision making. Regardless, the City Council needs to help the downtown go forward. By dealing with Subarea 1 and excluding the Jr. High

School site and the existing neighborhoods east of the railroad tracks, that can be accomplished.

**Mayor Tomei** reviewed the sites that would be excluded: the Jr. High School site; the Ledding Library; and City Hall. **Councilor Marshall** said that was not part of his motion but could certainly be included. **Mayor Tomei** noted Subarea 1 did not include any parcels east of the railroad tracks, so that does not need to be part of the motion.

**Mayor Tomei** asked staff if this was a good option. **Bartlett** said staff would need time to go through the ordinances to make sure the Council's intent was met. He recommended considering the ordinances at the May 19, 1998, meeting to make sure all the text and map changes are correctly identified and properly made.

**Councilor King** asked what could be done in the interim to help the downtown. **Bartlett** said Marshall's comments were very accurate. Many things that need to be done are private investors' decisions. The City has a contract with the MDDA to take the lead in business recruitment and selection. He suggested a joint work session between Council and the MDDA Board of Directors. There is a niche development group that needs to come up with some ideas. Councilor Marshall also identified the need for image development in that area. He felt this could only be done in concert with the business community. Linder needs to brief the Council on the Main Street Program and how downtown communities have faced shopping centers.

**Councilor Kappa** agreed there should be a meeting between the City Council and the MDDA. He asked to make a friendly amendment to the motion to add a Master Plan for the Jr. High School site although it is still public land. **Mayor Tomei** suggested noting that but not making it a part of this decision. **Councilor Kappa** was concerned the City Council would go through the process and not address master planning.

**Councilor Kappa** asked why the Pendleton site was not included, since it has some opportunities. The Planning Commission could look into the wetlands issue.

**Councilor Marshall's** concern was that Pendleton is located in the Willamette Greenway. He was not comfortable that this and the wetlands issue had been fully addressed.

**Mayor Tomei** agreed. There was no question or controversy about rezoning the downtown area. She felt, however, there should be more study on the Pendleton site.

**Councilor Kappa** said, although it is in the Greenway, there are still regulations that outline what may or may not be done. In that respect, he felt the site was protected.

**Heiser** said the only way to get more information on the Pendleton site regarding wetlands was to have the applicant do a delineation that would be required as part of any application. The City cannot ask the property owner to do this at this point. The mixed use overlay does require compliance with the Willamette Greenway and Natural Resource regulations.

**Councilor Kappa** asked if the Johnson Creek Resource Management group was involved. **Heiser** said there may be a referral.

**Councilor King** supported putting that off until a later date and felt Hughes had raised some very good issues.

**Mayor Tomei** agreed. She referred to staff report page VII.A.51 and the language for Mixed Use Overlay District. She asked if there were any issues on pages 51 and 52.

**Councilor King** asked what “specific underdeveloped sites in the Regional Center will be developed” meant. **Heiser** said it was intended to refer to Pendleton, Murphy, McFarland, and other commercial sites.

There were no questions or comments on pages 52 through 56.

**Mayor Tomei** asked who determined the innovative and decorative design for parking structures referred to in #7, page 57. **Heiser** said, at this time, it would be the Planning Commission. **Mayor Tomei** said there had been previous discussions about having a Design Review Committee. If the City Council were to implement a Design Committee in the future, then it would be the decision-making group. **Heiser** said that would be possible. **Mayor Tomei** said she could live with that because it is vague as written.

**Councilor Kappa** suggested discussing this concern with the Planning Commission.

**Bartlett** said in a mixed use overlay, the decision-making body is the Planning Commission. Exclusive of design review, the body that would decide on the innovative and decorative qualities of a proposed development would be the Planning Commission. If a Design Review Committee were established, depending on the process, that group could review the application.

**Councilor Kappa** wanted to discuss a Design Review Ordinance instead of a separate review committee.

**Councilor King** was concerned about being able to assure design continuity in the downtown area. **Bartlett** said the MDDA has an image and design committee and relies on outside sources to provide guidance on architectural and compatibility issues. Having an overall downtown design standard has not been addressed, and the decisions are currently up to the Planning Commission.

**Mayor Tomei** said this issue could be dealt with at a later date.

**Ramis** said the choice of words was important. If the Council is more concerned with continuity rather than innovation at this time, the correct words should be chosen when developing design standards.

**Councilor Kappa** added it was not his intent that the City Council needed a design review ordinance at this time, but he felt it should be complete before submitting the Metro report. He felt design review was a very important issue to re-visit.

**Mayor Tomei** referred to the same paragraph in which it was stated the dimensions of the parking structure shall not include support posts whether above or below ground structures. She was concerned this might be too restrictive and asked if an applicant could question that standard. **Heiser** said this is to preclude someone from designating a parking space that actually has a support structure in it.

**Mayor Tomei** referred to standard #9 that required twenty of more parking spaces for a redeveloped structure. She thought it was a good target but was concerned it might precluded too much development.

**Councilor Marshall** was concerned that possible redevelopment could be significantly hindered.

**Mayor Tomei** commented the City wants a certain amount of control, but it also wants to encourage development.

**Councilor Kappa** commented the redevelopment is sometimes in the same structure and suggested adding language referring to that. He suggested adding language. **Heiser** suggested language regarding a parking fund to pay towards some kind of future structure.

**Mayor Tomei** referred to page 59, requirements 1,2,4, and 5. She felt using the word “special” was too vague. **Bartlett** commented the MDDA has been planning to define a streetscape against which “special” could be judged.

**Eaton** pointed out, from her experience, there was a balance between being prescriptive in design criteria and being more open and flexible. Mixed use overlay applications would go before the Planning Commission, and some discretion is allowed on both sides as it is written. Sometimes the decision-maker wants more latitude.

**Mayor Tomei** said, if the City does write a design review ordinance, then it can be said the Committee decides what is “special.” **Bartlett** added the MDDA has already identified certain elements such as benches and waste receptacles.

**Mayor Tomei** was not completely comfortable, but she did not feel it would be reasonable to delay the process.

**Mayor Tomei** said, for clarification, that what Council has been discussing applies to Subarea 1. She asked if it was appropriate for Council to vote on Marshall’s motion. **Bartlett** said it was his understanding from the motion that Subarea 1-4 and all references under Subareas 2, 4, and 6 would be deleted.

**Councilor Marshall** said that was correct.

**Councilor Kappa** commented he felt the document was “soft” on trees and open spaces. The downtown area is satisfied by the riverfront and the Jr. High site. He was satisfied as long as the decision was only on Subarea 1, but when City Council discussed the other areas, he did have concerns. He withdrew his friendly amendment to the motion because he felt Pendleton would be protected by regulations already in place.

**Motioned passed unanimously. The final ordinances would be prepared for consideration on May 19, 1998.**

The group discussed a work session with the Planning Commission to discuss existing zoning, overlays, and the R-O-C applications. They agreed on a May 5 work session.

**It was moved by Councilor Kappa and seconded by Councilor Lancaster to direct staff to prepare an separate ordinance pertaining to public lands. Motion passed unanimously.**

## **OTHER BUSINESS**

### **Consider 1998 - 1999 Street Overlay Project**

**Shelton** presented the staff report in which the City Council was requested to authorize the City Manager to sign a contract for the 1998 - 1999 Street Overlay Project to Oregon Asphaltic Paving Co. in the amount of \$153,849.20. The selection of streets for this year's overlay were based on the Pavement Quality Index (PQI).

**Councilor Kappa** stepped down from the decision due to a potential conflict of interest.

**It was moved by Councilor King and seconded by Councilor Marshall to authorize the City Manager to sign a contract for the 1998 - 1999 Street Overlay Project to Oregon Asphaltic Paving Co. in the amount of \$153,849.20. Motion passed 4 - 0 - 1 with the following vote: Mayor Tomei, Councilor Lancaster, Councilor Marshall, and Councilor King aye; no nays; Councilor Kappa abstained.**

### **Amend Transportation Systems Development Charge Resolution**

**Brink** presented the staff report in which the City Council was requested to consider amending the resolution establishing the City Transportation Systems Development Charge. This amendment would recognize the most current edition the *Traffic Engineers' Trip Generation Handbook*.

**Councilor Marshall** said, for clarification, that the Transportation Systems Development Charge Resolution has already been adopted. The proposed resolution simply recognizes the most recent edition of reference material.

**Councilor King** asked for clarification on the increase. **Brink** said the newest edition of the Handbook identifies a slightly greater number of trips, and the SDC revenue could increase.

**It was moved by Councilor Kappa and seconded by Councilor King to adopt the resolution amending the Transportation Systems Development Charge Resolution 5-1998 to account for the current edition of the Institute of Traffic Engineers' Trip Generation. Motion passed unanimously.**

**RESOLUTION NO. 11-1998**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE TRANSPORTATION SYSTEMS DEVELOPMENT CHARGE TO ACCOUNT FOR THE CURRENT EDITION OF THE INSTITUTE OF TRAFFIC ENGINEERS' *TRIP GENERATION*.**

**Remove Differential Water Rate and Provide Billing Adjustments to Current Affected Customers**

**Anderson** presented the staff report in which the City Council was requested to consider a resolution amending Resolution 17-1997 by removing the section establishing differential water rate billing for customers not within the Milwaukie City limits and provide a billing adjustment to current customers affected by the differential rate structure. The billing adjustment would be approximately \$23,500.

The group questioned the need to make billing adjustments retroactive to 1992 and did not feel it was appropriate.

**It was moved by Councilor Marshall and seconded by Councilor Kappa to adopt the resolution amending Resolution 17-1997 by removing the section establishing differential water rate billing for customers not within the Milwaukie City limits but not provide a billing adjustment to current customers affected by the differential rate structure. Motion passed unanimously.**

**RESOLUTION 12-1998:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING RESOLUTION 17-1997 THEREBY ESTABLISHING PARITY IN WATER RATES FOR ALL CUSTOMERS WHETHER OR NOT RESIDING WITHIN THE CITY LIMITS OF THE CITY OF MILWAUKIE.**



## **Consider South/North Project Environmental Impact Statement Comments**

**Bartlett** presented the staff report. The City Council had a work session on April 14, 1998, and W&H Pacific prepared a letter for the Mayor's signature based on discussion at that meeting.

The group felt the letter prepared by staff was an accurate reflection of the work session discussion.

**It was moved by Councilor King and seconded by Councilor Lancaster to authorize the Mayor to sign the letter to Leon Skiles and table discussion of safety issues until there was an opportunity discuss them with the Milwaukie Police Chief. Motion passed 4 - 0 - 1 with the following vote: Mayor Tomei, Councilor Lancaster, Councilor Kappa and Councilor King aye; no nays; Councilor Marshall abstained.**

**Ramis** prepared a draft letter to Leon Skiles, Metro South/North Project Manager, addressing legal issues and seeking amendments to the Land Use Final Order (LUFO) Steering Committee. He sought direction from the City Council on whether to ask that additional members, Oregon City and Gladstone, be included.

**Mayor Tomei** recommended Oregon City have a seat on the LUFO Steering Committee because it is an important partner. Apparently, Gladstone has expressed no interest in being involved.

**Councilors Marshall and Lancaster** felt the invitation should also be extended to Gladstone.

**Councilor Kappa** stated for clarification that the City would have its own representation.

**Bartlett** said the Steering Committee would have to reconvene and vote on extending the LUFO Steering Committee intergovernmental agreement. The Council must weigh the importance of Oregon City and Gladstone having seats on the Steering Committee, and, if the issue is important to Council, it should not be concerned about timelines. Oregon City was not offered a seat because there are no segments directly impacting Oregon City land use. The purpose would to keep these cities involved in the process and maintain them as allies in the event decisions are made impacting cities.

**It was moved by Councilor Lancaster and seconded by Councilor Kappa to direct the City Attorney to prepare a letter to Leon Skiles asking that the cities of Oregon City and Gladstone be members of the LUFO Steering Committee. Motion passed unanimously.**

### **Withdrawal of Variance File No. VR-96-07**

**Bartlett** reviewed a letter from Ken Sandblast of Compass Engineering regarding the withdrawal of Variance File No. VR-96-07. This application is related to the Lewelling Land Use Board of Appeals (LUBA) appeal.

Staff recommended remanding the application back to the Planning Commission for consideration with the proposal. **Bartlett** added that LUBA remanded the application back to the City for resolution. The developer believes the variance is no longer needed because he has acquired additional property, but, until staff and the Planning Commission see all the dimensions, it cannot be determined if it is a variance-free subdivision. It would be a disservice to simply accept the withdrawal. By remanding it back to the Planning Commission, the variance and subdivision review are alive under the existing fee. There will no longer need to be a variance on lot size but there may still be others based on dimensions or where existing houses are located. This is a precaution staff recommends taking.

**Councilor Marshall** said the applicant has already been granted a subdivision variance. If the Council follows this course of action, will the subdivision that has been approved stay approved, or will the applicant have to start over in the process. **Bartlett** said the Council can accept the land variance withdrawal, but none of the additional variances. The applicant will have to come in on File S-96-03 with an amendment to reflect the additional land they have acquired and go through the hearing process.

**Councilor Marshall** asked, if the City Council does not follow that course of action, would the applicant have to start over with the subdivision. **Bartlett** said that was correct. **Councilor Marshall** said there are issues revolving around the subdivision that were not addressed originally. It was his opinion that the applicant should start over and justify the subdivision.

**Bartlett** said the applicant has to provide a new drawing and start with the Planning Commission on a new hearing. He can keep S-96-03 alive and modified with a new subdivision plat. The Planning Commission will verify it meets conditions and standards.

**Ramis** added, as a new drawing, it will have to be tested.

**Councilor Marshall** said there were issues related to the street and easement. He did not feel the applicant should have a carte blanche. **Heiser** understood this only allows the applicant to go through the process without paying additional fees.

**Councilor Kappa** was concerned the process was legitimate. **Bartlett** said there are no guarantees that someone might not raise another LUBA appeal or sue for delaying a project.

**Councilor Lancaster** felt the City was acting in good faith by waiving the fees, and the applicant should not be exempt from tests he would otherwise have to address.

**It was moved by Mayor Tomei and seconded by Councilor Lancaster to accept the lot size variance withdrawal and remand the remainder of the decisions to the Planning Commission. Motion passed 3 - 0 - 2 with the following vote: Mayor Tomei, Councilor Lancaster, and Councilor King aye; no nays; Councilor Marshall and Councilor Kappa abstained.**

### **Regional Committee Assignments**

**Councilor Marshall** brought it to Council's attention that the term of the City's current North Clackamas Parks and Recreation District representative expired in March. He nominated himself for the position.

**Mayor Tomei** understood Trotter's term was not over for some time.

**Councilor Kappa** said he also wanted to submit his name if there was a vote.

**Councilor Marshall** understood Trotter could no longer be the City's representative since he was not on Council. **Mayor Tomei** said she and Councilor Kappa had appointed Trotter as the City's representative.

**Bartlett** said the representative is a Council appointee and may be a Councilor or any individual the Council chooses to represent it. He added that one Council cannot bind a future Council.

The group agreed the Regional Committee assignments would be discussed at May 5, 1998, session.

**Mayor Tomei** felt the issue of Trotter's term needed to be clarified. **Bartlett** said he would verify the term length and other issues.

### **April 7, 1998 City Council Minutes**

**Mayor Tomei** noted an error on page eighteen of the regular session meetings. The City Recorder reviewed the audio tape, and corrected the fourth paragraph to read "...Mayor Tomei added Maggie Collins said it would not depend on if light rail came into or near Milwaukie."

**It was moved by Councilor Kappa and seconded by Councilor King to approve the City Council minutes of April 7, 1998, as amended. Motion passed unanimously.**

## **INFORMATION**

### **Light Rail Field Trip**

**Anna Brown** of Tri-Met was present to discuss the tour options.

The group agreed to take a tour on the Eastside MAX from Gateway to downtown Gresham on May 9, 1998, from 9:00 a.m. to 1:00 p.m. They agreed to invite the Planning Commission, Budget Committee, Neighborhood Association and Land Use Chairs, and MDDA. The number in the group should not be more than 25.

## **ADJOURNMENT**

**Mayor Tomei** adjourned the meeting at 10:55 p.m.

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Pat DuVal, Recorder